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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/051,542 | 01/17/2002 | Dario Gristina | 112439.120 | 9650 |
| 28089 | 7590 | 06/08/2004 | EXAMINER | |
| WILMER CUTLER PICKERING HALE AND DORR LLP | | | KIM, PAUL L | |
| 300 PARK AVENUE | | | ART UNIT | PAPER NUMBER |
| NEW YORK, NY 10022 | | | 2857 | |

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/051,542 | Applicant(s) GRISTINA ET AL.  | |
| | Examiner Paul L Kim | Art Unit 2857 | |

-- Th MAILING DATE of this communication appears on the cov r sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-144 is/are pending in the application.
- 4a) Of the above claim(s) 66-89 and 101-132 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-65, 90-100 and 133-144 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group II and species II is acknowledged. The traversal is on the ground(s) that examinations of groups I & II and species I & II should be examined together. This is not found persuasive because group II discloses a GUI with separate regions for rent inclusion, revenue profile, building location, etc, while group I is centered on the resource consumption monitoring system itself. An additional search would be required for group II because it is centered on a GUI. Species II (claims 101-132) includes limitations such as "coordinating universal time among metering devices" which is not found in species I and would require an additional search.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7, 11, 14, 90, 91, 93, 94, 99, 133, 135, 137, 138, and 143 are rejected under 35 U.S.C. 102(b) as being anticipated by Cmar.

With regard to claims 1-3 and 11, Cmar teaches a system for tracking resource consumption for a building comprising: monitoring devices associated with the building

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resource delivery and utilization structures (fig. 3A, part 1B'), a data collection and processing device at the building, gathering data from each monitoring device (fig. 3A, part 1B''), a building management resource system in communication with the data collection and processing device (fig. 3B & 3D), and a database storing and displaying data comprising survey studies, infrastructure data, weather data, load data, and current and historical resource consumption of the building (fig. 3, parts 1'', 1A'', & 1B'').

With regard to claim 7, Cmar teaches the system monitoring real time loads for resource delivery and utilization structures and mechanical equipment (col. 4, lines 63+).

With regard to claim 14, Cmar teaches the system further comprising a resource consumption-forecasting tool (col. 6, lines 1-7).

With regard to claims 90, 91, 133, and 135, Cmar teaches a computer readable medium and system comprising: instructions and means for acquiring and storing data from a plurality of monitoring devices of a building (fig. 3A, parts 1B, 1'', 1A'', & 1B''), instructions and means for acquiring field surveys and infrastructure information of the building (fig. 3A, parts 1'), instructions and means for generating a display of resource consumption (fig. 5A & 5B), instructions and means for sending input to a building management system of the building (fig. 1A, step 3), and instructions and means for setting the building resource consumption based on acquired data from the monitoring devices (fig. 1A, step 4).

With regard to claims 93 and 137, Cmar teaches weather conditions being monitored (fig. 2, part 1A'').

With regard to claims 94 and 138, Cmar teaches generating resource consumption bills for the building (fig. 3C).

With regard to claims 99 and 143, Cmar teaches forecasting resource consumption (col. 6, lines 1-7).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, 12, 13, 15, 16, 17, 19-34, 36-41, 53-55, 57-66, 95, 97, 98, 100, 134, 139, 141, 142, and 144 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar in view of Budike Jr.

With regard to claims 4-6, 16, 17, 19, 20, 23-25, 29, and 30, Cmar teaches a system for tracking resource consumption for a building in real time comprising: monitoring devices associated with the building resource delivery and utilization structures (fig. 3A, part 1B'), a data collection and processing device at the building, gathering data from each monitoring device (fig. 3A, part 1B'''), and a building management resource system in communication with the data collection and processing device (fig. 3B & 3D). Cmar, however, does not specify a second data collection and processing device communicating with the data collection device at the building. Budike Jr. teaches a utility monitoring system that has a main data collection system (fig. 2, part

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1) and a second utility monitoring system connected to it (fig. 2, part 39). Since Cmar and Budike Jr. are both within the art of collecting data from multi-utility meters, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that a second monitoring device is used, as taught by Budike Jr., so as to derive the benefit of enhanced data processing by having an additional system process data.

With regard to claims 12, 13, and 26-28, Cmar does not teach a resource-trading platform that allows for buying and selling of resources. Budike Jr. teaches a utility monitoring system that allows various utilities to be purchased through a network (col. 8, lines 1-5). Since Cmar and Budike Jr. are both within the art of collecting data from multi-utility meters, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that resources could be traded, as taught by Budike Jr., so as to derive the benefit of cost savings by being able to choose a resource provider.

With regard to claims 15, 100, and 144, Cmar does not specify monitoring the security of the building. Budike Jr. teaches an energy monitoring system that has a security system (col. 18, lines 42-44). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that a security system is used for the building, as taught by Budike Jr., in order to derive the benefit of cost savings by having protection of valuable equipment.

With regard to claim 21, Cmar teaches weather conditions being monitored (fig. 2, part 1A").

With regard to claim 22, Cmar teaches a database storing infrastructure and resource data for the building (fig. 3A, 1').

With regard to claim 29, Cmar teaches the system further comprising a resource consumption-forecasting tool (col. 6, lines 1-7).

With regard to claims 31-34, 36, 37, 41, 53-55, 58, 65, and 134, Cmar teaches a system for monitoring a building comprising: a device for receiving and processing resource consumption data of an electrical load for the building and sending data to a building resource management system that controls the resource consumption and delivery (fig. 2), a database for storing and displaying data comprising survey studies, infrastructure data, and current and historical resource consumption of the building (fig. 3, parts 1", 1A", & 1B"), a means for sending instructions for a building's resource consumption (fig. 3D, part 5"), and an interface for displaying data (fig. 2). Cmar, however, does not specify devices for processing data being located remotely from the building. Budike Jr. teaches a utility monitoring system that has a management system for receiving and processing consumption data located remotely (col. 5, lines 5-10) and a second data collection and processing device located remotely (fig. 2, part 39). Since Cmar and Budike Jr. are both within the art of collecting data from multi-utility meters, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that devices for receiving and processing data is located remotely, as taught by Budike Jr., so as to derive the benefit of versatility and cost savings by being able to collect data from a long distance.

With regard to claims 38, 39, 61-63, 95, 97, 98, 139, 141, and 142, Cmar does not teach a resource-trading platform that allows for buying and selling of resources. Budike Jr. teaches a utility monitoring system that allows various utilities to be purchased through a network (col. 8, lines 1-5). Since Cmar and Budike Jr. are both within the art of collecting data from multi-utility meters, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that resources could be traded, as taught by Budike Jr., so as to derive the benefit of cost savings by being able to choose a resource provider.

With regard to claims 40 and 64, Cmar teaches the system further comprising a resource consumption-forecasting tool (col. 6, lines 1-7).

With regard to claim 57, Cmar teaches weather conditions being monitored (fig. 2, part 1A").

With regard to claim 59, Cmar teaches a graphical user interface for displaying energy consumption data (fig. 2).

With regard to claim 60, Cmar teaches determining resource consumption localized to a utilization structure (figs 5A & 5B).

6. Claims 8, 9, 92, and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar in view of Zaloom.

Cmar does not teach determining when a load is outside of operating specification. Zaloom teaches an energy monitoring system that determines when energy usage of a facility is above a predetermined threshold (col. 8, lines 6-15). Since

Cmar and Zaloom are both within the art of energy monitoring of a facility and since determining whether electrical loads are outside of operating specifications is well known in the art, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that electrical loads that are outside of operating conditions can be determined, as taught by Zaloom, so as to derive the benefit of energy savings.

7. Claims 10, 96, and 140 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar in view of Steadham et al.

Cmar teaches a database storing data, but does not specify the database being a CAD, ODBC, or relational. Steadham et al teaches an event management system that incorporates a relational database and a CAD module (abstract). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that a relational database is used, as taught by Steadham et al, in order to derive the benefit of an efficient record keeping system.

8. Claims 18, 35, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar and Budike Jr. in view of Zaloom.

Cmar does not teach determining when a load is outside of operating specification. Zaloom teaches an energy monitoring system that determines when energy usage of a facility is above a predetermined threshold (col. 8, lines 6-15). Since Cmar and Zaloom are both within the art of energy monitoring of a facility and since

determining whether electrical loads are outside of operating specifications is well known in the art, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that electrical loads that are outside of operating conditions can be determined, as taught by Zaloom, so as to derive the benefit of energy savings.

9. Claims 42, 43, 45-48, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar in view of Fong.

With regard to claims 42 and 43, Cmar teaches a method for monitoring a building comprising: acquiring resource consumption, delivery, and mechanical equipment data for an electrical load of the building through a monitoring device (fig. 3A, parts 1', 1A', & 1B'), storing collected data for the building (fig. 3A, parts 1", 1A", & 1B"), and determining resource consumption and resource delivery for the building based on the acquired collected data (figs. 3B & 3C). Cmar, however, does not teach generating resource consumption bills on a metered point. Fong teaches an energy management system that monitors energy usage on a metered point or tenant basis (fig. 1). Since Cmar and Fong are both within the art of collecting monitoring energy usage from facilities, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that resource consumption bills are generated for more than one tenant or facility, as taught by Fong, so as to derive the benefit of cost savings by having a central monitor collect data from multiple facilities.

With regard to claim 45, Cmar teaches weather conditions being monitored (fig. 2, part 1A”).

With regard to claim 46, Cmar teaches converting stored consumption and equipment data into a database (fig. 3, parts 1”, 1A”, & 1B”).

With regard to claim 47, Cmar teaches a graphical user interface for displaying energy consumption data (fig. 2).

With regard to claim 48, Cmar teaches determining resource consumption localized to a utilization structure (figs 5A & 5B).

With regard to claim 52, Cmar teaches forecasting resource consumption (col. 6, lines 1-7).

10. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar and Fong in view of Zaloom.

Cmar does not teach determining when a load is outside of operating specification. Zaloom teaches an energy monitoring system that determines when energy usage of a facility is above a predetermined threshold (col. 8, lines 6-15). Since Cmar and Zaloom are both within the art of energy monitoring of a facility and since determining whether electrical loads are outside of operating specifications is well known in the art, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that electrical loads that are outside of operating conditions can be determined, as taught by Zaloom, so as to derive the benefit of energy savings.

11. Claim 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cmar and Fong in view of Budike Jr.

Cmar does not teach trading resources with other resource providers. Budike Jr. teaches a utility monitoring system that allows various utilities to be purchased through a network (col. 8, lines 1-5). Since Cmar and Budike Jr. are both within the art of collecting data from multi-utility meters, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Cmar, so that resources could be traded, as taught by Budike Jr., so as to derive the benefit of cost savings by being able to choose a resource provider.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Afshari teaches a method of forecasting energy usage of a facility.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 571-272-2217. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK
May 26, 2004

